

2015 DRAFTING REQUEST

Bill

Received: 10/17/2014 Received By: mpfotenh
Wanted: As time permits Same as LRB:
For: Administration-Budget 266-2213 By/Representing: Ley
May Contact: Drafter: mpfotenh
Subject: Environment - water quality Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email:
Carbon copy (CC) to: sbostatlanguage@webapps.wi.gov
becky.tradewell@legis.wisconsin.gov
robin.kite@legis.wisconsin.gov
mary.pfotenhauer@legis.wisconsin.gov

Pre Topic:

DOA:.....Ley, BB0164 -

Topic:

Contaminated sediment removal

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mpfotenh 10/23/2014	kfollett 10/24/2014		_____			
/1			rschluet 10/24/2014	_____	lparisi 10/24/2014		State S&L

FE Sent For:

<END>

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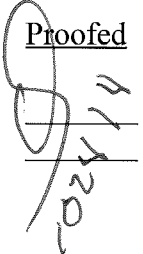
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/?	mpfotenh	11/5f 10/24	11/5f 10/24				State S&L

FE Sent For:

<END>

Pfotenhauer, Mary

From: Kite, Robin
Sent: Friday, October 17, 2014 12:38 PM
To: Pfotenhauer, Mary
Cc: Shea, Elisabeth
Subject: FW: Statutory Language Drafting Request - BB0164

From: Hanaman, Cathlene
Sent: Friday, October 17, 2014 11:49 AM
To: Kite, Robin; Shea, Elisabeth
Subject: FW: Statutory Language Drafting Request - BB0164

From: Emily.Ley@wisconsin.gov [mailto:Emily.Ley@wisconsin.gov]
Sent: Friday, October 17, 2014 11:46 AM
To: Hanaman, Cathlene
Cc: Frederick, Caitlin - DOA; Ley, Emily A - DOA; Connor, Christopher B - DOA
Subject: Statutory Language Drafting Request - BB0164

Biennial Budget: 2015-17

Topic: Contaminated Sediment Removal

Tracking Code: BB0164

SBO Team: AEJ

SBO Analyst: Ley, Emily - DOA
Phone: 608-266-2213
E-mail: Emily.Ley@wisconsin.gov

Agency Acronym: DNR

Agency Number: 370

Priority: Medium

Intent:

Authorize an additional \$5 million in bonding authority under s. 20.866(2)(ti) [\$37 million total] for contaminated sediment removal projects.

Additionally, modify the program under s. 281.87 to authorize the use of funds bonded under s. 20.866(2)(ti) to be used for contaminated sediment remediation projects outside of the Great Lakes basin area, provided matching project funds exist.

Attachments: True

Please send completed drafts to SBOStatlanguage@webapps.wi.gov

DNR 15-17 Biennial Budget Bonding Request

The Department requests \$5 million in additional bonding authorization to provide state-sourced funding to clean up contaminated sediments in Lake Michigan and Lake Superior or their tributaries (Ch. 281.87 Wis. State Statutes). This money would be used to match federal agency programs (EPA Great Lakes Legacy Act, Great Lakes Restoration Initiative (GLRI), and US Army Corps of Engineers Continuing Authority Program) to provide as much as \$20 million for remediation of Great Lakes sediment sites in the state.

Also requested is a change in the statutory language of Ch. 281.87 to allow the use of funds bonded through s. 20.866(2)(ti) to be used for contaminated sediment remediation projects outside of the Great Lakes basins. In these instances, bonded money would be used as match against U.S. Army Corps of Engineers Continuing Authority Program grants and local government grants or their comparable cost-share efforts.

This request builds upon \$32 million of existing bonding authorized under the 4 previous biennial budget acts. As detailed in the table below, of the \$32 million authorized, nearly \$23 million has been committed thus far on 5 projects and used to leverage nearly \$115 million in federal and local funding.

Project	Year	Sediment Removed (cu. yds.)	Contaminant Removed (lbs.)	Status	State Expenditures	Federal/Local Match	Responsible Parties Share (Superfund)	Total Cost \$
Kinnickinnic River	2009	170,000	14,200	Remediation complete	7,527,916	14,300,000		21,827,916
Lincoln Park/Milwaukee River Ph. I	2011-12	119,000	9,000	Remediation complete	8,900,000	18,200,000		27,100,000
Sheboygan Harbor	2012	301,000	36,800	Remediation complete	3,319,998	50,700,000	22,500,000	76,519,998
Lincoln Park/Milwaukee River Ph. II	2012-14	est. 35,000	To be determined	Feasibility study and design work completed; remediation activities in 2014	2,100,000	15,900,000		18,000,000
Ansul arsenic site, Menominee River, Marinette	2014-2015	--	To be determined	Contractor selection in progress; work to start in late 2014 and finish 2015	1,000,000	15,842,428	9,561,619	26,404,047
Total		625,000	60,000	--	22,847,914	114,942,428	32,061,619	169,851,961

Immediate and near-future (1 to 3 years) expenditures will allocate the remainder of the bonding authority to additional contaminated sediment sites, including those listed in the table below:

Potential Sediment Sites for Future Funding				
Site	Status	Contaminant of Concern	Estimated State Contribution	Potential Match Source
Milwaukee River AOC; Cedar Creek Superfund	Likely; currently undergoing feasibility study and negotiations with Responsible Party.	PCB	\$2,000,000	GLRI Betterment & Responsible Party
St. Louis River AOC; Howard's Bay	Likely 2015; signed agreement between agencies and stakeholder, feasibility study to be completed in 2014	Lead, Tributyl Tin, PAH	\$1,000,000	GLRI Betterment & Industry Stakeholder
St. Louis River AOC; Barker's Pickle Pond	Likely 2015; Feasibility study to be completed in 2014	Heavy metals, PAH	\$1,000,000	USFWS
St. Louis River AOC; Crawford Creek	Potential 2016; feasibility study to be completed in 2015, discussions with agencies and responsible party for GLRI Betterment action initiated early 2014	Dioxin, PAH	\$1,500,000	GLRI Betterment & Responsible Party
Milwaukee River AOC; Solvay Coke Superfund Alternative	Potential; Responsible Party currently conducting risk assessment; Sediment outside of RP's area of responsibility will be investigated in 2015 by GLNPO	PAH	\$2,000,000	GLRI Betterment & Responsible Party (multiple partners through transferred liability)
Milwaukee River AOC; downstream of Estabrook Dam	Potential; extent and degree of contamination still needs to be defined (scheduled for 2015, GLNPO).	PCB	\$3,000,000	GLRI & Responsible Party, and County.
Portage Canal	Potential 2016; feasibility study to be completed by early 2015. Dept. has recently initiated discussions with Corps of Engineers for Sect.206 project potential	Lead, Mercury	\$10,000,000	Columbia Co. & U.S. ACE
TOTAL			\$20,500,000	

Expenditure of all funds currently authorized will contribute towards removal of all Great Lakes Areas of Concern (AOC) designations in the state by helping address approximately 75% of the activities identified in the existing Remedial Action Plans. Additional funding authorization, coupled with statutory language adjustment to allow for expansion of funding use, will move the state towards the ambitious goal of initiating management actions for delisting all AOCs by 2020, and will lead to healthier aquatic environments across the state.

Background

The release of industrial contaminants from both point and nonpoint sources into the waters of the State has resulted in sediment contamination at a significant number of locations in Wisconsin. Contaminants, both inorganic and organic, have typically originated from historic releases from single or multiple industrial operations, or from wide-spread releases occurring as both point and non-point sources at varying times throughout the watershed. Common risks associated with contaminated sediments include human and ecological health impacts caused by exposure to pollutants in the food chain.

In the Great Lakes, contaminated sediment has been identified as the largest source of toxins entering the aquatic food chain, and most of Wisconsin's major Great Lakes estuarine tributaries and harbors contain contaminated sediments. All five of the state's Great Lakes Areas of Concern (AOC) have beneficial use impairments attributed to contaminated sediment, such as restrictions on navigational dredging and disposal, and large-vessel anchoring.

Contaminated sediment sites also exist in the Wisconsin River and the Mississippi River Basins, often located within the large impoundments created by the hydroelectric dams found on these rivers and their major tributaries. These sites, while typically smaller in size than Great Lakes sites, still contribute to environmental degradation and are associated with impaired waters of the state. To address these sites, the Department requests modifying statutory language in Ch. 281.87 Wis. State Statutes to include contaminated sediment removal outside of Great Lakes watersheds.

Continued and expanded funding will allow the Department to continue to aggressively address complex contamination issues throughout the state by providing the resources necessary to conduct feasibility studies, plan and execute clean-up operations, leverage local partners and apply for grants and financial matches from federal agencies, and move remedial actions to completion. These efforts will result in decreasing or eliminating the sources of contaminants to fish and wildlife, will lead to the removal of beneficial use impairments in the AOCs, and will help protect the health, safety, and welfare of generations of Wisconsin citizens.

The State of Wisconsin has identified several rivers and streams in the state that have water quality impairments due to the release of toxic contaminants from sediment deposits. In many cases, these streams have fish consumption advisories in place due to the risk to human health presented by the contaminants. Organic chemicals (polychlorinated biphenyls [PCBs], polycyclic aromatic hydrocarbons [PAHs], dichlorodiphenyltrichloroethane/ethylene [DDT/DDE], Dioxin) and heavy metals (Mercury, Lead, Chromium, Cadmium, and Arsenic) are among the common contaminants identified through sediment sampling. In addition, the sediments can be a significant source of conventional water quality impairments such as phosphorus and ammonia.

The Department's Sediment Management Program has evolved over the years to identify contaminated sediment issues in other Great Lakes tributary waters not identified in the early RAPs, as well as in state waters external to the Great Lakes basins. It is primarily through the continued and expanded use of money made available through s. 20.866(2)(ti) bonding authority and executed through Ch. 281.87 that the

program has been and will continue to be able to address the human and ecological health risks associated with these sites. Alternative approaches, such as modifications to the State's Environmental Repair Fund (s. 20.866(2)(tg)) or mimicking Minnesota's direct-tax environmental funds (collected through the *Clean Water, Land, and Legacy Amendment* to the MN state constitution) could likewise provide the money necessary to match sums from federal and local-government granting partners.

Aside from the environmental benefits of remediating contaminated sediment, economic benefits are also appreciated. Temporary economic booms for local businesses occur throughout the duration of a remediation project as equipment operators, landscapers, tradesmen, engineers, and scientists converge on site. Beyond the immediate clean up, long-term economic growth in the form of shoreline property development and increased recreational opportunities is common, with estimates of a \$2 to \$3 return for every \$1 spent on remediation. By removing contaminants, deepening waterways, and restoring shoreland, these blighted regions instantly become more attractive for business investment, redevelopment, and tourism.

It is anticipated that partnering with federal agencies will continue to be the primary mechanism by which Wisconsin's Great Lakes contaminated sediment sites are cleaned up. Funding granted through the Great Lakes Legacy Act (GLLA), authorized in 2001 and managed through EPA-GLNPO, has provided the state the opportunity to leverage s. 281.87 bonding with EPA Legacy funds to execute unprecedented remediation projects at large AOC contamination sites around the state. Additionally, the decision by EPA to manage together the Legacy Program and the 2010 Great Lakes Restoration Initiative appropriations (GLRI) resulted in an increase in available funding to \$70 Million. The GLRI continues to be a very important program for advancing restoration, remediation and protection of the Great Lakes through implementation activities. While the GLRI action plan is scheduled through 2014, the Great Lakes Commission and the Council of Great Lakes Governors have provided strong endorsement of both the GLRI and the Legacy Program and have supported continued funding. Based on the demonstrative success of this initiative throughout all the Great Lakes States, this important funding initiative is expected to continue beyond 2014.



In 10/23/14

State of Wisconsin
2015 - 2016 LEGISLATURE



LRB-0456/?

MCP: [signature] /1

RHNT

DOA:.....Ley, BB0164 – Contaminated sediment removal

FOR 2015-2017 BUDGET – NOT READY FOR INTRODUCTION

DN

Don't Gen

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

ENVIRONMENT ✓

WATER QUALITY ✓

X
X
Current law authorizes DNR to pay a portion of the costs of a project to remove contaminated sediment from Lake Michigan or Lake Superior, or a tributary of either lake, if the project is in a body of water that DNR has identified under the federal Clean Water Act as being impaired, and the impairment is caused by contaminated sediment. This bill authorizes DNR to pay a portion of the costs of a project to remove contaminated sediment from any waters of the state, if the project is in a body of water that DNR has identified under the federal Clean Water Act as being impaired, and the impairment is caused by contaminated sediment.

This bill also increases the general obligation bonding authority for sediment removal projects by \$5,000,000.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 SECTION 1. 20.866 (2) (ti) of the statutes is amended to read: ✓

1 20.866 (2) (ti) *Natural resources; contaminated sediment removal.* From the
 2 capital improvement fund, a sum sufficient for the department of natural resources
 3 to fund removal of contaminated sediment under s. 281.87. The state may contract
 4 public debt in an amount not to exceed ~~\$32,000,000~~ [✓] \$37,000,000 for this purpose.

History: 1971 c. 42; 1971 c. 100 s. 23; 1971 c. 125, 211, 215, 236, 307, 330, 336; 1973 c. 90 ss. 148 to 149m, 555m (2); 1973 c. 333; 1975 c. 26, 39, 40, 41, 200, 224, 422; 1977 c. 4, 6; 1977 c. 29 ss. 385 to 387, 1650m (4), 1656 (43); 1977 c. 418; 1979 c. 4; 1979 c. 34 ss. 675a to 677v, 2102 (6) (a), (39) (a), (52) (a); 1979 c. 107, 221; 1981 c. 1 ss. 17, 18, 47; 1981 c. 20, 108, 317, 336; 1983 a. 27; 1983 a. 36 s. 96 (4); 1983 a. 97, 192, 195, 212; 1983 a. 410 s. 2202 (2); 1985 a. 6; 1985 a. 8 ss. 4, 12; 1985 a. 29 ss. 589m to 598, 3202 (23) (c), (26) (a), (53) (a); 1985 a. 77, 120, 332; 1987 a. 27, 295, 298, 399, 403, 409; 1989 a. 31, 46, 107, 122, 219, 336, 359, 366; 1991 a. 39, 51, 269, 309, 324; 1993 a. 2, 16, 98, 115, 213, 343, 377, 413, 437, 453, 485; 1995 a. 27 ss. 1159 to 1168s, 9126 (19), 9145 (1); 1995 a. 40, 57, 60, 113; 1995 a. 216, s. 30m and 9127; 1995 a. 227, 246, 372, 388, 416, 452; 1997 a. 27, 35, 61, 164, 237, 252; 1999 a. 4, 9, 146; 1999 a. 150 s. 672; 1999 a. 184; 2001 a. 12, 16, 103, 109; 2003 a. 33, 64, 91, 129; 2005 a. 1, 22, 25, 102, 300; 2007 a. 5; 2007 a. 20 ss. 582 to 597s, 9121 (6) (a); 2007 a. 226; 2009 a. 28, 361; 2011 a. 13, 32, 158; 2013 a. 20.

5 **SECTION 2.** Subchapter VII (title) of chapter 281 [precedes 281.81] of the
 6 statutes is amended to read:

7 **CHAPTER 281**

8 **SUBCHAPTER VII**

9 **GREAT LAKES REMEDIAL ACTION**

10 **SECTION 3.** 281.87 of the statutes is amended to read:

11 **281.87 ~~Great Lakes contaminated~~ Contaminated sediment removal.**

12 The department may expend funds from the appropriation under s. 20.866 (2) (ti) to
 13 pay a portion of the costs of a project to remove contaminated sediment from Lake
 14 Michigan or Lake Superior or a tributary of Lake Michigan or Lake Superior any
 15 waters of the state, if the project is in an impaired water body that the department
 16 has identified under 33 USC 1313 (d) (1) (A) and the source of the impairment is
 17 contaminated sediment.

18 **History:** 2007 a. 20; 2009 a. 28.

(END)

DN

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0456/7dn

MCP:...

Date

ATTN: Emily Ley

attached
X Please review the enclosed budget draft carefully and let me know if it is consistent with the request.

attached
X DOA requested that s. 281.87 be expanded to permit the money available through bonding under s. 20.866(2)(ti) to be used towards contaminated sediment removal projects outside the Great Lakes basin. In the enclosed draft, I have simply removed the limitation in s. 281.87 that the funds from the appropriation under s. 20.866(2)(ti) be used for contaminated sediment removal projects only in Lake Michigan, Lake Superior, or their tributaries, and clarified that these funds may be used for sediment removal projects within any waters of the state.

The statutes require a "remedial action plan" be developed for certain projects (for example, projects under s. 281.83), but this requirement is not explicitly included in s. 281.87. Should this draft require something comparable to a remedial action plan for sediment removal projects outside of the Great Lakes basin?

X In addition, I have assumed in this draft that sediment removal projects outside the Great Lakes basin are intended to be limited to projects in an impaired water body that DNR has identified under 33 USC 1313(d)(1)(A), as is currently required under s. 281.87. Please let me know if that is not what is wanted.

Finally, DOA's request stated that the new projects outside of the Great Lakes basin were to be met with matching funding from various sources. I have not included that provision in the attached draft. My understanding is that the existing Great Lakes sediment removal projects are also intended to be met with matching funding; however, that is not an express requirement in the current text of s. 281.87. Section 281.87 does state that the appropriation funding is to be used to pay for "a portion" of the costs of a project, rather than specifically stating that it must be met with matching funds.

It may be helpful to speak with DNR about these matters. Please let me know if you have any objection to my speaking directly with DNR to address these questions.

Mary Pfothenauer
Legislative Attorney
(608) 266-6778
mary.pfothenauer@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0456/1dn
MCP:kjfrs

October 24, 2014

ATTN: Emily Ley

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State of Wisconsin
2015 - 2016 LEGISLATURE



LRB-0456/1
MCP:kjf:rs

DOA:.....Ley, BB0164 – Contaminated sediment removal

FOR 2015-2017 BUDGET -- NOT READY FOR INTRODUCTION

1 **AN ACT ...; relating to:** the budget.

Analysis by the Legislative Reference Bureau

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18 **(END)**